```
Robert J. Giuffra, Jr. (admitted pro hac vice)
 1
    Sharon L. Nelles (admitted pro hac vice)
 2
    Suhana S. Han (admitted pro hac vice)
    William H. Wagener (admitted pro hac vice)
 3
    SULLIVAN & CROMWELL LLP
    125 Broad Street
 4
    New York, New York 10004
    Telephone:
 5
                (212) 558-4000
    Facsimile:
                (212) 558-3588
 6
    Laura Kabler Oswell (State Bar No. 241281)
    SULLIVAN & CROMWELL LLP
    1870 Embarcadero Road
 8
    Palo Alto, California 94303
 9
    Telephone:
                (650) 461-5600
    Facsimile:
                (650) 461-5700
10
    Attorneys for Defendants Volkswagen AG,
    Volkswagen Group of America, Inc., and
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    Volkswagen Group of America Finance, LLC
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13
                              UNITED STATES DISTRICT COURT
14
                            NORTHERN DISTRICT OF CALIFORNIA
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    IN RE: VOLKSWAGEN "CLEAN DIESEL"
    MARKETING, SALES PRACTICES, AND
                                              ) MDL No. 2672 CRB (JSC)
17
    PRODUCTS LIABILITY LITIGATION
                                              ) DEFENDANTS VOLKSWAGEN AG,
18
    This Document Relates to: Securities Actions
                                              ) VOLKSWAGEN GROUP OF AMERICA, INC.,
                                              ) VOLKSWAGEN GROUP OF AMERICA
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    BRS v. Volkswagen AG, et al., Case No. 16-cv-
                                              ) FINANCE LLC, MICHAEL HORN AND
    3435 ("Bondholders Securities Action")
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                                              ) MARTIN WINTERKORN'S NOTICE OF
                                              ) MOTION AND MOTION TO DISQUALIFY
21
                                              ) PLAINTIFFS' EXPERT DR. MICHAEL
                                              ) HARTZMARK AND EXCLUDE HIS
22
                                              ) TESTIMONY
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                                              ) Courtroom: 6
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                                              ) The Honorable Charles R. Breyer
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                            DEFENDANTS' NOTICE OF MOTION TO EXCLUDE THE TESTIMONY OF MICHAEL HARTZMARK
                                                                  CASE No. MDL No. 2672 CRB (JSC)
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1 NOTICE OF MOTION AND MOTION 2 TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD: 3 PLEASE TAKE NOTICE that, on April 17, 2020 at 10:00 a.m., or at such other time as 4 the Court may direct or the parties may agree, Defendants Volkswagen AG, Volkswagen Group of 5 America, Inc., Volkswagen Group of America Finance, LLC (collectively, "Volkswagen"), Martin 6 Winterkorn, and Michael Horn (together with Volkswagen, "Defendants") will and hereby do move this 7 Court to disqualify Plaintiff's putative expert economist, Dr. Michael Hartzmark, and to exclude his 8 testimony. This Motion is made pursuant to the Court's inherent authority to disqualify experts, Federal 9 Rules of Evidence 702 and Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993), and is 10 based on this Notice of Motion, the accompanying Memorandum of Law in Opposition To Plaintiff's 11 Motion For Class Certification and in Support Of Excluding Plaintiff's Expert Testimony, the 12 Declaration of Suhana S. Han, all pleadings and papers filed herein, and oral argument of counsel. 13 14 Dated: February 14, 2020 Respectfully submitted, 15 /s/ Robert J. Giuffra, Jr. Robert J. Giuffra, Jr. (admitted pro hac vice) 16 Sharon L. Nelles (admitted *pro hac vice*) Suhana S. Han (admitted *pro hac vice*) 17 William H. Wagener (admitted pro hac vice) SULLIVAN & CROMWELL LLP 18 125 Broad Street New York, New York 10004 19 Telephone: (212) 558-4000 Facsimile: (212) 558-3588 20 Laura Kabler Oswell 21 SULLIVAN & CROMWELL LLP 1870 Embarcadero Road 22 Palo Alto, California 94303 Telephone: (650) 461-5600 23 Facsimile: (650) 461-5700 24 25 Attorneys for Defendants Volkswagen AG, Volkswagen Group of America, Inc., and 26 Volkswagen Group of America Finance, LLC 27 /s/ Joseph Gonzalez 28 David Schertler (admitted pro hac vice) Lisa Manning (admitted pro hac vice) Joseph Gonzalez (admitted pro hac vice)

1	SCHERTLER & ONORATO, LLP
	901 New York Avenue, N.W. Suite 500
2	Washington, D.C. 20001
3	Telephone: (202) 628-4199
4	Facsimile: (202) 628-4177
	Attorneys for Defendant Michael Horn
5	
6	/s/ Gregory P. Joseph
7	/s/ <i>Gregory P. Joseph</i> Gregory P. Joseph (admitted <i>pro hac vice</i>) Peter R. Jerdee (admitted <i>pro hac vice</i>)
8	Christopher J. Stanley (admitted <i>pro hac vice</i>) JOSEPH HAGE AARONSON LLC
9	JOSEPH HAGE AARONSON LLC 485 Lexington Avenue, 30th Floor
	New York, New York 10017
10	Tel: (212) 407-1210 Fax: (212) 407-1280
11	
12	Attorneys for Defendant Martin Winterkorn
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14	
15	
16	
17	
18	
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SULLIVAN & CROMWELL LLP

1	ATTESTATION (CIVIL LOCAL RULE 5-1(i)(3))		
2	In accordance with Civil Local Rule 5-1(i)(3), I attest that concurrence in the filing of this		
3	document has been obtained from the signatory.		
4	4		
5	5 Dated: February 14, 2020 SULLIVAN &	& CROMWELL LLP	
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7	7 <u>/s/ Laura Kab</u> Laura Kabler	Oswell	
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SULLIVAN & CROMWELL LLP